

104TH CONGRESS
2D SESSION

S. 1606

To control the use of biological agents that have the potential to pose a severe threat to public health and safety, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 12, 1996

Mr. HATCH (for himself, Mrs. FEINSTEIN, Mr. THURMOND, Mr. DEWINE, Mr. KOHL, and Mr. BIDEN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To control the use of biological agents that have the potential to pose a severe threat to public health and safety, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Biological Agents En-
5 hanced Penalties and Control Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

8 (1) certain biological agents have the potential
9 to pose a severe threat to public health and safety;

1 (2) such biological agents can be used as weap-
2 ons by individuals or organizations for the purpose
3 of domestic or international terrorism or for other
4 criminal purposes;

5 (3) the transfer and possession of potentially
6 hazardous biological agents should be regulated to
7 protect public health and safety; and

8 (4) efforts to protect the public from exposure
9 to such agents should ensure that individuals and
10 groups with legitimate objectives continue to have
11 access to such agents for clinical and research pur-
12 poses.

13 **SEC. 3. CRIMINAL ENFORCEMENT.**

14 (a) BIOLOGICAL WEAPONS.—Chapter 10 of title 18,
15 United States Code, is amended—

16 (1) in section 175(a), by inserting “or attempts,
17 threatens, or conspires to do the same,” after “to do
18 so,”;

19 (2) in section 177(a)(2), by inserting “threat,”
20 after “attempt,”; and

21 (3) in section 178—

22 (A) in paragraph (1), by striking “or infec-
23 tious substance” and inserting “infectious sub-
24 stance, or biological product that may be engi-
25 neered as a result of biotechnology, or any nat-

1 urally occurring or bioengineered component of
 2 any such microorganism, virus, infectious sub-
 3 stance, or biological product”;

4 (B) in paragraph (2)—

5 (i) by inserting “the toxic material of
 6 plants, animals, microorganisms, viruses,
 7 fungi, or infectious substances, or a recom-
 8 binant molecule” after “means”;

9 (ii) by striking “production—” and
 10 inserting “production, including—”;

11 (iii) in subparagraph (A), by inserting
 12 “or biological product that may be engi-
 13 neered as a result of biotechnology” after
 14 “substance”; and

15 (iv) in subparagraph (B), by inserting
 16 “or biological product” after “isomer”; and

17 (C) in paragraph (4), by inserting “, or
 18 molecule, including a recombinant molecule, or
 19 biological product that may be engineered as a
 20 result of biotechnology,” after “organism”.

21 (b) TERRORISM.—Section 2332a(a) of title 18, Unit-
 22 ed States Code, is amended—

23 (1) by inserting “, threatens,” after “at-
 24 tempts”; and

1 (2) by inserting “, including any biological
2 agent, toxin, or vector (as those terms are defined
3 in section 178)” after “destruction”.

4 **SEC. 4. REGULATORY CONTROL OF BIOLOGICAL AGENTS.**

5 (a) LIST OF BIOLOGICAL AGENTS.—

6 (1) IN GENERAL.—The Secretary shall, through
7 regulations promulgated under subsection (c), estab-
8 lish and maintain a list of each biological agent that
9 has the potential to pose a severe threat to public
10 health and safety.

11 (2) CRITERIA.—In determining whether to in-
12 clude an agent on the list under paragraph (1), the
13 Secretary shall—

14 (A) consider—

15 (i) the effect on human health of ex-
16 posure to the agent;

17 (ii) the degree of contagiousness of
18 the agent and the methods by which the
19 agent is transferred to humans;

20 (iii) the availability and effectiveness
21 of immunizations to prevent and treat-
22 ments for any illness resulting from infec-
23 tion by the agent; and

24 (iv) any other criteria the Secretary
25 considers appropriate; and

1 (B) consult with scientific experts rep-
2 resenting appropriate professional groups.

3 (b) REGULATION OF TRANSFERS OF LISTED BIO-
4 LOGICAL AGENTS.—The Secretary shall, through regula-
5 tions promulgated under subsection (c), provide for—

6 (1) the establishment and enforcement of safety
7 procedures for the transfer of biological agents listed
8 pursuant subsection (a), including measures to en-
9 sure—

10 (A) proper training and appropriate skills
11 to handle such agents; and

12 (B) proper laboratory facilities to contain
13 and dispose of such agents;

14 (2) safeguards to prevent access to such agents
15 for use in domestic or international terrorism or for
16 any other criminal purpose;

17 (3) the establishment of procedures to protect
18 the public safety in the event of a transfer or poten-
19 tial transfer of a biological agent in violation of the
20 safety procedures established under paragraph (1) or
21 the safeguards established under paragraph (2); and

22 (4) appropriate availability of biological agents
23 for research, education, and other legitimate pur-
24 poses.

1 (c) TIME LIMITS.—The Secretary shall carry out sub-
2 sections (a) and (b) by issuing—

3 (1) interim rules not later than 90 days after
4 the date of the enactment of this Act;

5 (2) proposed rules not later than 180 days after
6 the date of the enactment of this Act; and

7 (3) final rules not later than 360 days after the
8 date of the enactment of this Act.

9 (d) DEFINITIONS.—For purposes of this section—

10 (1) the term “biological agent” has the same
11 meaning as in section 178 of title 18, United States
12 Code; and

13 (2) the term “Secretary” means the Secretary
14 of Health and Human Services.

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